



# Edward Byrne Memorial Justice Assistance Grant Program: Legislative and Funding History

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## Summary

The Violence Against Women and Department of Justice Reauthorization Act of 2005 (P.L. 109-162) combined the Edward Byrne Memorial State and Local Law Enforcement Assistance (Byrne Grant) programs and the Local Law Enforcement Block Grant (LLEBG) program into the Edward Byrne Memorial Justice Assistance Grant (JAG) program. JAG funds are allocated to states using a formula that closely approximates the way funds were distributed under the Byrne Formula Grant program and LLEBG. P.L. 109-162 also consolidated the 28 program purpose areas under the Byrne Formula Grant program and the 7 LLEBG program purpose areas into 7 program purpose areas.

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## Background

Historically, crime control has been the responsibility of local and state governments, with little involvement from the federal government. However, as crime became more rampant in the United States, the federal government increased its support for domestic crime control by creating a series of grant programs designed to assist state and local law enforcement. Congress created the Edward Byrne Memorial State and Local Law Enforcement Assistance (Byrne Grant) programs and the Local Law Enforcement Block Grant (LLEBG) program, along with other grant programs, to assist state and local law enforcement in their efforts to control domestic crime.<sup>1</sup>

The Violence Against Women and Department of Justice Reauthorization Act of 2005 (P.L. 109-162) combined the Byrne Grant programs and LLEBG into the Edward Byrne Memorial Justice Assistance Grant (JAG) program. The next section will discuss JAG's predecessor grant programs, the Byrne Grant program and LLEBG.

## JAG Predecessor Grant Programs

### Edward Byrne Memorial State and Local Law Enforcement Assistance Programs

The Byrne Grant programs were authorized by the Anti-drug Abuse Act of 1988 (P.L. 100-690). The Byrne Grant programs had two components, a formula grant program<sup>2</sup> (Byrne Formula Grant program) and a discretionary grant program (Byrne Discretionary Grant program). Funds awarded to states under the Byrne Formula Grant program were to be used to provide personnel, equipment, training, technical assistance, and information systems for more widespread apprehension, prosecution, adjudication, detention, and rehabilitation of offenders who violate state and local laws.<sup>3</sup> Grant funds could also be used to provide assistance (other than compensation) to victims of crime.<sup>4</sup> Twenty-nine purposes areas were established by Congress to define the nature and scope of the programs and projects that could be funded with the formula grant funds.<sup>5</sup>

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<sup>1</sup> Other grant programs created by Congress to assist state and local law enforcement are not discussed in this report. For a discussion of some of these programs, see CRS Report RL33308, *Community Oriented Policing Services (COPS): Background, Legislation, and Issues*, by Nathan James.

<sup>2</sup> All 50 states, the District of Columbia, and all U.S. territories were eligible to apply for Byrne formula grant funds. Under the formula, each state and territory received a minimum allocation of \$500,000 or 0.25%, whichever was greater, of the total amount allocated for the fiscal year. After the minimum allocation was made to each state, the remaining funds were allocated by using a formula whereby each state's and territory's allocation was based on its portion of the total U.S. population. Each state and territory was required to "pass through" a certain percentage of its allocation to units of local government. The pass-through percentage for each eligible state was the ratio of the total amount of criminal justice funding provided by all units of local government in the state for the previous fiscal year to the total amount of criminal justice funding provided by both the state and all units of local government in the previous fiscal year.

<sup>3</sup> P.L. 100-690, §501(b).

<sup>4</sup> *Ibid.*

<sup>5</sup> A list of the program purposes areas can be found online at <http://www.ojp.usdoj.gov/BJA/grant/byrnepurpose.html>. P.L. 100-690, §§5104 and 6901(a) established 21 program purpose areas for the Byrne Formula Grant program. Additional program purpose areas were created by P.L. 103-322, §§100003, 140004, 15003, and 210302(a); P.L. 104-132, §822(a); P.L. 106-177, §103; and P.L. 106-561, §2(a).

The Byrne Discretionary Grant program received \$50 million or 20% of the total allocation for the Byrne Grant program, whichever was less. The funds were to provide additional federal financial assistance to private or public agencies and nonprofit organizations for various purposes.<sup>6</sup>

### The Local Law Enforcement Block Grant Program

LLEBG, which was also a formula grant program,<sup>7</sup> was first authorized by Congress in the FY1996 Commerce, Justice, and State, the Judiciary and Other Related Agencies Appropriations Act (P.L. 104-134). In the conference report that accompanied P.L. 104-134 (H.Rept. 104-537), Congress cited H.R. 728 (introduced in the first session of the 104<sup>th</sup> Congress) as the legislation governing the program.<sup>8</sup> The purpose of the LLEBG program was to provide units of local government with federal grant funds so they could either hire police officers or create programs that would combat crime and increase public safety.<sup>9</sup> Like the Byrne Grant program, LLEBG had program purpose areas that stated what types of programs LLEBG funds could support. H.R. 728 outlined six program purpose areas,<sup>10</sup> which Congress instructed the Bureau of Justice Assistance (BJA) to use when administering the LLEBG program.<sup>11</sup>

## Edward Byrne Memorial Justice Assistance Grant (JAG) Program

The Violence Against Women and Department of Justice Reauthorization Act of 2005 (P.L. 109-162) combined the Byrne Grant programs and LLEBG into the Edward Byrne Memorial Justice

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<sup>6</sup> Byrne Discretionary Grant program funds could be used for the following purposes: (1) undertaking educational and training programs for criminal justice professionals and the general public about lawful and safe gun ownership, storage, and carriage; (2) providing technical assistance to states and local units of government; (3) providing financial assistance to public agencies and nonprofit organizations for demonstrations programs which, in light of research, would likely be successful in multiple jurisdictions; (4) undertaking projects that are national or multijurisdictional in nature, which addressed one of the 29 purposes areas.

<sup>7</sup> All 50 states, the District of Columbia, and all U.S. territories were eligible to apply for LLEBG funds. The formula used to distribute LLEBG funds was computed in two stages. First, funds were distributed to each state and territory based on the state's or territory's proportion of the average number of Uniform Crime Report (UCR) Part I violent crimes committed in the United States. The average number of UCR Part I violent crimes was calculated using the three most recent years available. Each state and territory received a minimum allocation of 0.25% of the total funds available. In the second stage, some of the funds awarded to each state were directly awarded to units of local government. Each unit of local government's share of the state allocation was based on the jurisdiction's proportion of the average number of UCR Part I violent crimes committed in its respective state. However, funding was only directly awarded to a unit of local government if it was eligible to receive \$10,000 or more in funding. The funds that remained after direct allocations were made to units of local government were administered by the state. The state could choose to award funds to units of local government that did not receive a direct allocation.

<sup>8</sup> H.R. 728 was passed by the House, but the bill never passed the Senate.

<sup>9</sup> U.S. Congress, House Committee on the Judiciary, *Local Government Law Enforcement Block Grants Act of 1995*, report to accompany H.R. 728, 104<sup>th</sup> Cong., 1<sup>st</sup> sess., H.Rept. 104-24 (Washington: GPO, 1995), p. 8.

<sup>10</sup> H.R. 728, §101(a)(2).

<sup>11</sup> U.S. Congress, *Making Appropriations for Fiscal Year 1996 to Make a Further Downpayment Toward a Balanced Budget, and for Other Purposes*, report to accompany H.R. 3019, 104<sup>th</sup> Cong., 2<sup>nd</sup> sess., H.Rept. 104-537 (Washington: GPO, 1995), p. 401.

Assistance Grant program (JAG). Congress consolidated the programs to streamline the process for states applying for funding under the programs.<sup>12</sup>

JAG funds are allocated to states by using a formula. The formula allocating JAG funds to the 50 states, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands combines elements of the formulas used in the Byrne Formula Grant program and LLEBG (see discussion below). Under the current JAG formula, the total allocated to a state is based on the state's population and average reported Uniform Crime Report (UCR) Part I violent crimes. Specifically, half of a state's allocation is based on a state's respective share of the U.S. population, and the other half is based on the state's respective share of the UCR Part I violent crimes in the United States for the three most recent years for which data are available. Under current law, each state and territory receives a guaranteed minimum amount of funding, set at 0.25% of the total JAG funds available. If any state does not receive the minimum allocation after calculating each state's allocation using the formula, then each state receives the minimum allocation. The balance of the total funds available is then allocated to states that did not receive the minimum allocation of 0.25% by using the formula discussed above. When the remaining funds are allocated to states that did not receive a minimum allocation, the population and UCR Part I crime data from the states receiving the minimum allocation is not considered for the purposes of calculating the allocations.

Like LLEBG, JAG funds are directly awarded to local jurisdictions in the state. After the initial state allocation is calculated, 40% of the state's allocation is directly awarded to units of local government.<sup>13</sup> Awards to units of local government under JAG are made the same way they were under LLEBG; namely, each unit of local government's award is based on the jurisdiction's proportion of the average number of UCR Part I violent crimes committed in its respective state. Only units of local government that would receive \$10,000 or more are eligible for a direct allocation. The balance of funds not directly awarded to units of local government is administered by the state. Also, like the Byrne Formula Grant program, each state is required to "pass through" a certain percentage of the funds directly awarded to the state.<sup>14</sup> For JAG, the pass-through percentage is calculated as the ratio of the total amount of expenditures on criminal justice by the state for the most recent fiscal year to the total amount of expenditures on criminal justice by both the state and all units of local government in the past fiscal year.

## **JAG Program Purpose Areas**

P.L. 109-162 consolidated the 28 program purpose areas under the Byrne Formula Grant program and the 7 LLEBG program purpose areas into seven program purpose areas. The seven broad program purpose areas are intended to give states and local units of government flexibility in creating programs to address local needs.<sup>15</sup> The seven program purpose areas are

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<sup>12</sup>Senate Debate, "Statement on Introduced Bills and Joint Resolutions," vol. 150 (September 29, 2004), pp. S9938-9956; House Debate, "Department of Justice Appropriations Authorization Act, Fiscal Years 2004 Through 2006," vol. 150 (March 30, 2004), pp. H1666-1683; Senate Debate, "Department of Justice Appropriations Authorization Act, Fiscal Years 2006 Through 2009," vol. 151 (December 16, 2005), pp. S13749-13766; U.S. Congress, House Committee on the Judiciary, *Department of Justice Appropriations Authorization Act, Fiscal Years 2006 Through 2009*, report to accompany H.R. 3402, 109<sup>th</sup> Cong., 1<sup>st</sup> sess., H.Rept. 109-233 (Washington: GPO, 2005), p. 89.

<sup>13</sup> P.L. 109-162, Section 1111(a).

<sup>14</sup> Ibid.

<sup>15</sup> U.S. Congress, House Committee on the Judiciary, *Department of Justice Appropriations Authorization Act, Fiscal* (continued...)

- law enforcement programs,
- prosecution and court programs,
- prevention and education programs,
- corrections and community corrections programs,
- drug treatment programs,
- planning, evaluation, and technology improvement programs, and
- crime victim and witness programs (other than compensation).

The program purposes areas are broad enough to allow programs funded under the Byrne Grant program and LLEBG to continue to be funded under JAG.<sup>16</sup>

## **Funding to Local Law Enforcement Through the Byrne Grant Programs, LLEBG, and JAG**

The total amount of funding for local law enforcement provided through the Byrne Grant programs and LLEBG remained fairly consistent for FY1999 through FY2003 (see **Table 1**). Funding for local law enforcement under these programs decreased each fiscal year between FY2003 and FY2006. In FY2004, Congress appropriated \$884 million for the Byrne Grant programs and LLEBG, 16% less than what was appropriated for the two programs in FY2003. In FY2005 (the first year of JAG), Congress appropriated \$804 million for JAG and the Byrne Discretionary Grant program, which was 9% less than what Congress appropriated in FY2004 for the Byrne Grant programs and LLEBG. In FY2006, Congress appropriated \$608 million for JAG and the Byrne Discretionary Grant program, 24% less than what was appropriated for the two programs in FY2005. In FY2007, Congress appropriated \$759 million in total for both JAG and the Byrne Discretionary Grant program, 25% more than Congress appropriated for the two programs in FY2006. In FY2008, Congress appropriated \$374 million for JAG, the Byrne Discretionary Grant program, and the Byrne Competitive Grant program, 51% less than what was appropriated for JAG and the Byrne Discretionary Grant program in FY2007. In FY2009, Congress appropriated \$755 million for JAG, the Byrne Discretionary Grant program, and the Byrne Competitive Grant program, 101.7% more than what was appropriated for all three programs in FY2008.

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*Years 2006 Through 2009*, report to accompany H.R. 3402, 109<sup>th</sup> Cong., 1<sup>st</sup> sess., H.Rept. 109-233 (Washington: GPO, 2005), p. 89.

<sup>16</sup> Senate Debate, “Statement on Introduced Bills and Joint Resolutions,” vol. 150 (September 29, 2004), pp. H.R. 9956.

**Table I. Appropriations for Byrne Formula, Byrne Discretionary, Byrne Competitive, LLEBG, and JAG, FY1999-FY2008**

(funding in millions of \$)

FY	Byrne Formula	Byrne Discretionary	LLEBG	JAG	Byrne Competitive	Total
1999	\$505.0	\$47.0	\$523.0 <sup>a</sup>	—	—	\$1,075.0
2000	\$500.0	\$52.0	\$523.0 <sup>b</sup>	—	—	\$1,075.0
2001	\$500.0	\$69.1	\$523.0 <sup>c</sup>	—	—	\$1,092.1
2002	\$500.0	\$94.5	\$400.0 <sup>d</sup>	—	—	\$994.5
2003	\$500.0	\$150.9	\$400.0 <sup>e</sup>	—	—	\$1,050.9
2004	\$500.0	\$159.1	\$225.0 <sup>f</sup>	—	—	\$884.1
2005	—	\$170.0	—	\$634.0 <sup>g</sup>	—	\$804.0
2006	—	\$191.7	—	\$416.5 <sup>h</sup>	—	\$608.2
2007	—	\$239.3 <sup>i</sup>	—	\$519.9 <sup>i</sup>	—	\$759.2
2008	—	\$187.5	—	\$170.4 <sup>k</sup>	\$16.0	\$373.9
2009 <sup>l</sup>	—	\$178.5	—	\$546.0 <sup>m</sup>	\$30.0	\$754.5

**Sources:** FY1999 appropriations taken from H.Rept. 105-825; FY2002 appropriations taken from H.Rept. 106-479; FY2001 appropriations taken from H.Rept. 106-1005; FY2002 appropriations taken from H.Rept. 107-278; FY2003 appropriations taken from H.Rept. 108-10; FY2004 appropriations taken from H.Rept. 108-401; FY2005 appropriations taken from H.Rept. 108-792; FY2006 appropriations taken from H.Rept. 109-272; FY2007 enacted taken from OJP's FY2009 Congressional Budget Justifications; FY2008 enacted taken from *House Appropriations Committee Print on the Consolidated Appropriations Act, 2008 (H.R. 2764/P.L. 110-161)*; FY2009 taken from Joint Explanatory Statement to accompany the Omnibus Appropriations Act, 2009 (H.R. 1105), as published in the *Congressional Record*, daily edition, vol. 155 (February 23, 2009), pp. H1761-H1824.

**Note:** Appropriations do not include rescissions.

- a. FY1999 appropriated funding for LLEBG included \$40 million for the Boys and Girls Club of America and \$20 million for the National Institute of Justice (NIJ) for developing law enforcement technology.
- b. FY2000 appropriated funding for LLEBG included \$50 million for the Boys and Girls Club of America and \$20 million for NIJ for developing law enforcement technology.
- c. FY2001 appropriated funding for LLEBG included \$60 million for the Boys and Girls Club of America and \$20 million for NIJ for developing law enforcement technology.
- d. FY2002 appropriated funding for LLEBG included \$70 million for the Boys and Girls Club of America and \$20 million for NIJ for developing law enforcement technology.
- e. FY2003 appropriated funding for LLEBG included \$80 million for the Boys and Girls Club of America, \$20 million for NIJ for developing law enforcement technology, and \$3 million for Citizen Corps.
- f. FY2004 appropriated funding for LLEBG included \$80 million for the Boys and Girls Club of America, \$10 million for NIJ for developing law enforcement technology, and \$3 million for USA Freedom Corps.
- g. FY2005 appropriated funding for JAG included \$85 million for the Boys and Girls Club of America, \$10 million for NIJ for developing law enforcement technology, and \$2.5 million for USA Freedom Corps.
- h. FY2006 appropriated funding for JAG included \$85 million for the Boys and Girls Club of America and \$10 million for NIJ for developing law enforcement technology.
- i. FY2007 appropriated funding for the Byrne Discretionary Grant program includes a \$50 million supplemental appropriation for state and local law enforcement assistance in the area affected by Hurricane Katrina (P.L. 110-28).

- j. FY2007 appropriated funding for JAG included \$19.745 million for NIJ for developing law enforcement technology.
- k. FY2008 appropriated funding for JAG included \$2 million for NIJ for developing law enforcement technology and \$2 million to increase the intelligence capabilities of local law enforcement.
- l. The American Recovery and Reinvestment Act of 2009 (P.L. 111-5) included \$2 billion for JAG and \$225 million for the Byrne Competitive Grant program. These amounts are not reflected in **Table I** because they were designated as emergency appropriations.
- m. FY2009 appropriated funding for JAG included \$5 million for NIJ for developing law enforcement technology, \$2 million to increase the intelligence capabilities of local law enforcement, and \$7 million to reimburse state and local law enforcement for security and related costs associated with protecting the President-elect during the Presidential transition period.

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